BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS EDLA LIABILITY LITIGATION SEC. L/3

	06-11435
Rosie Russaw, etc. v. Merck & Co., Inc., et al., M.D. Alabama, C.A. No. 2:06-557	06-11436
Betty Whitehead, etc. v. Merck & Co., Inc., et al., N.D. Alabama, C.A. No. 2:06-1279 Edward Schwartz v. Merck & Co., Inc., et al., N.D. California, C.A. No. 3:06-4180	06-11437
Patrick F. Musselv v. Moral & Co. Leavest J. N.D. Callornia, C.A. No. 5:00-4180	06-11438
Patrick E. Murphy v. Merck & Co., Inc., et al., N.D. California, C.A. No. 4:06-4794	06-11439
Anita Davis v. Merck & Co., Inc., et al., N.D. Florida, C.A. No. 4:06-356	06-11440
Barbara Heet, et al. v. Merck & Co., Inc., et al., S.D. Illinois, C.A. No. 3:06-514	06-11441
Vivian Copher, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1185	06-11442
Inez Kincaid, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1186	06-11443
Richard Helton, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1187	06-11444
Minnie Smith, et al. v. Merck & Co., Inc., et al., E.D. Missouri, C.A. No. 4:06-1196	
John James Mangani v. Merck & Co., Inc., et al., D. Nevada, C.A. No. 2:06-914	06-11445
Kathie Bartlett, et al. v. Merck & Co., Inc., et al., D. Nevada, C.A. No. 3:06-359	06-11446

BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR., KATHRYN H. VRATIL, DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL

TRANSFER ORDER

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in these actions to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Defendant Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Motions to remand to state court can be presented to and decided by the transferee judge. See, e.g., In re Ivy, 901 F.2d 7 (2d Cir. 1990); In re Prudential Insurance Company of America Sales Practices Litigation, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons

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^{*} Judge Motz took no part in the decision of this matter.

expressed by the Panel in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims relating to Vioxx. See In re Vioxx Products Liability Litigation, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

Wm. Terrell Hodges

Chairman

Deputy Cierk, U.S. District Court
Eastern District of Louisiana
New Orleans, LA